

EXHIBIT 7



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 26 2011

REPLY TO THE ATTENTION OF:

WW-16J

CERTIFIED MAIL 7009 1680 0000 7672 5071
RETURN RECEIPT REQUESTED

Mr. James S. Jones
Registered Agent for Polo Development, Inc.
10 Water Street
Poland, Ohio 44514

Re: Findings of Violation and Administrative Compliance Order ("Order")
Polo Development Site
EPA Docket Number V-404-AO-12-01

Dear Mr. Jones:

The enclosed Order is issued pursuant to Section 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a). The Order finds Polo Development, Inc., AIM Georgia, LLC and Joseph Zdrilich to be in violation of Section 301 of the CWA, 33 U.S.C. § 1311, and outlines corrective actions that you must undertake to come into compliance. The Order requires you to submit and implement a Restoration Plan which is approved by EPA. The Restoration Plan is due within 30 days of the effective date of the Order. The Order is effective within 10 days of your receipt of it. Within that time you must notify EPA of either your intent to comply, request an informal conference or submit written comments.

You must comply with the terms of this Order within the time periods specified in the Order. Failure to comply with the Order may subject you to further enforcement action.

If you have any questions concerning this matter, please contact Melanie Haveman at (312) 886-2255.

Please send your written response to the address shown in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Tinka G. Hyde", is written over a horizontal line.

Tinka G. Hyde
Director, Water Division

Enclosure

cc (w/encl.):

Nancy Mullen, U.S. Army Corps of Engineers, Pittsburgh District

Thomas Harcarik, Division of Surface Water, Ohio Environmental Protection Agency

Don Garver, Mahoning County Soil and Water Conservation District

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

**AIM Georgia, LLC
Polo Development, Inc.
Joseph Zdrilich**

Respondents.

DOCKET NO. V-404-AO-12-01

**FINDINGS OF VIOLATION AND
ADMINISTRATIVE COMPLIANCE
ORDER**

**PROCEEDINGS UNDER SECTION
309(a) OF THE CLEAN WATER ACT,
33 U.S.C. § 1319(a)**

FINDINGS OF VIOLATION AND ADMINISTRATIVE COMPLIANCE ORDER

The following **FINDINGS** are made and **ORDER** issued to AIM Georgia, LLC, Polo Development, Inc. and Joseph Zdrilich (hereinafter "Respondents" or "you") under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by Section 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a). The Administrator has delegated this authority to the Regional Administrator of EPA, Region 5, who has duly redelegated this authority to the undersigned Director, Water Division, EPA, Region 5, who hereby issues this Findings and Order.

REGULATORY BASIS

1. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), states that: "Whenever, on the basis of any information available . . . the Administrator finds that any person is in violation of Section 301(a) of the CWA, the Administrator shall issue an Order requiring such person to comply with such section"
2. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), states: "Except as in compliance with Section 404 of the CWA the discharge of any pollutant by any person shall be unlawful."
3. Section 404(a) of the CWA, 33 U.S.C. § 1344(a), states: "The Secretary [of the Army]

may issue permits, . . . for the discharge of dredged or fill material into the navigable waters at specified disposal sites."

4. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines the term "discharge of pollutants" as "any addition of any pollutant to navigable waters from any point source"

5. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), defines a "pollutant" as "dredged spoil, solid waste, . . . biological materials, . . . rock, sand, cellar dirt, . . . and agricultural waste discharged into water."

6. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines the term "navigable waters" as "the waters of the United States"

7. The term "waters of the United States" means "all other waters such as . . . streams . . . , wetlands . . . ;" and "Wetlands adjacent to waters [such as lakes, rivers and streams]." 40 C.F.R. § 230.3(s).

8. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines a "point source" as "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, [or] discrete fissure . . . from which pollutants are or may be discharged."

9. "Wetlands" are defined as "those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions." 40 C.F.R. §§ 230.3(t), 232.2.

FINDINGS

10. The Respondents in this matter are: Polo Development, Inc., 8599 Youngstown Pittsburg Road, Poland, Ohio; AIM Georgia, LLC, 2345 Stone Willow Way, Buford, Georgia; and Joseph Zdrilich, 8599 Youngstown Pittsburg Road, Poland, Ohio.

11. The property subject to this Order is located north of Polo Boulevard in Poland Township, Mahoning County, Ohio ("the Site"). The current owner of record for this approximately 6.22 acre site is AIM Georgia, LLC, Buford, Georgia (see Exhibit 1 for a map of the site).

12. The Site is also known by Mahoning County Parcel Identification No. 350650007010.

13. Prior to November 2006, the Site contained wetlands, including approximately 0.98 acres of wetlands that are the subject of this order

14. Prior to November 2006, the Site contained streams, including approximately 200 linear feet of stream that is the subject of this order.

15. The owner of record from November 26, 2003 to September 4, 2007, was Polo Development, Inc.

16. From 2006 to 2011, Respondents and/or those acting on Respondents' behalf cleared vegetation including tree roots, graded and added fill, including broken asphalt, into the wetlands and streams located at the Site. (See Exhibit 1 for map of impacts)

17. Dirt, clay, topsoil, sand, and/or bricks are each "pollutants" as defined by Section 502(12) of the Act, 33 U.S.C. § 1362(12).

18. Respondents and/or those acting on Respondents' behalf used earthmovers, bulldozers, dump trucks, and/or graders to add the pollutants to the Site.

19. At all times relevant to this Order, Respondent Zdrilich was an individual and Respondents AIM Georgia, LLC and Polo Development, Inc. were a corporation, partnership or association. Therefore, the Respondents meet the definition of "person" as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).

20. Respondents' additions were "discharges" as defined by Section 502(12) of the Act, 33 U.S.C. § 1362(12).

21. Respondents discharged “pollutants” as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6).
22. Earthmovers, bulldozers, dump trucks and graders are each “point sources” as contemplated by Section 502(14) of the Act, 33 U.S.C. § 1362(14).
23. Therefore, Respondents discharged pollutants from a point source.
24. Prior to November 2006, areas of the Site were inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances did support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
25. Therefore, the Site contained “wetlands” as defined by 40 C.F.R. § 232.3.
26. Based on United States Geological Survey topographic maps, National Wetland Inventory maps, Federal Emergency Management maps, National Resource Conservation Service soil survey maps, county plats, and various aerial photos, wetlands and streams on the Site were impacted by the Respondents’ activities from 2006 to 2011.
27. The Site was “abutting” the waters of Burgess Run, and “adjacent” to the waters of the Yellow Creek, as defined by 40 C.F.R. § 232.3.
28. The water of the wetlands and the unnamed tributary abutted and flowed into Burgess Run.
29. The water of Burgess Run flows approximately 3 river miles to Yellow Creek.
30. Yellow Creek flows approximately 2.5 river miles before it is a “Traditional Navigable Water” as defined by 40 C.F.R. § 230.3(s)(1).
31. Respondents discharged pollutants from a point source into “navigable waters” as defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7).
32. Respondents were a person who discharged pollutants from point sources into navigable waters in violation of Section 301 of the Act, 33 U.S.C. § 1311.

33. Each day the pollutants remain in navigable waters constitutes an additional day of violation of Section 301 of the Act, 33 U.S.C. § 1311.

ORDER

BASED UPON THE FOREGOING FINDINGS, and pursuant to the authority under Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), duly delegated to the undersigned, **IT IS HEREBY ORDERED:**

1. You must refrain from further discharges of dredge or fill material into the wetlands or waterways on the Site except in compliance with a permit issued pursuant to Section 404 of the CWA, 33 U.S.C. § 1344, and the CWA, 33 U.S.C. §§ 1251 - 1387.
2. You must notify EPA in writing within 10 days of receiving this Order that you intend to comply with this Order.
3. Within 30 days of the effective date of this Order, you must submit to EPA for approval a Restoration Plan, consistent with the general guidelines attached as Exhibit 2, to restore all of the mechanically cleared and graded wetlands that were identified in paragraph 16 of the Findings to their original state and condition.
4. The Restoration Plan must include a schedule of restoration activities and a date by which they will be completed. Monitoring to assess whether restoration efforts meet approved performance standards will be required, and reports must be submitted to EPA at the address specified in paragraph 7 below according to the approved Restoration Plan. EPA recommends that you retain the services of an experienced wetland consultant to work with the EPA on this plan. The stream may not need to be restored to its original location.
5. Within 30 days of approval by EPA of all or any portion of the Restoration Plan identified in paragraphs 3 and 4 of this Order, you must commence site wetland and stream restoration activities in accordance with the approved plan or portion thereof.

6. Within 30 days of completing restoration activities, you must submit to EPA written certification that you have restored wetlands at the Site as nearly as possible to their original condition in accordance with the approved Restoration Plan. Such certification must include photographs and a summary of all work performed at the Sites. This summary will include an as-built drawing, a timeline of the activities, description of the activities, and identification of any problems encountered during implementation.

7. Submittals provided under this Order must be certified and submitted by you under authorized signature to the following:

Melanie Haveman
Watersheds & Wetlands Branch
U.S. Environmental Protection Agency (WW-16J)
77 West Jackson Boulevard
Chicago, Illinois 60604,

EPA does not waive any rights to use the information requested herein in an administrative, civil, or criminal action.

8. Neither the issuance of this Order by EPA nor compliance with its terms affects your ongoing obligation to comply with the CWA or any other federal, state, or local law or regulation, nor does it preclude further enforcement action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, for the violations cited herein.

9. Neither the issuance of this Order by EPA, nor compliance with this Order by you, will be deemed to relieve you of your liability for any penalty, remedy, or sanction authorized to be imposed pursuant to Section 309(b), (c), or (g) of the CWA, 33 U.S.C. § 1319(b), (c) or (g), for any violation of applicable requirements of the CWA. EPA specifically reserves the right to seek any or all remedies authorized under these provisions for each violation specified in this Order.

10. Violation of the terms of this Order may result in further enforcement action under Section 309 of the CWA, 33 U.S.C. § 1319. The CWA includes provisions for administrative

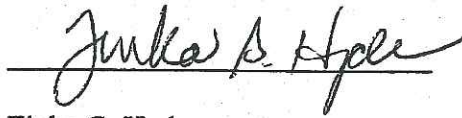
penalties, for civil injunctive relief and penalties, and for criminal sanctions for violations of the CWA. Specifically, pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2), the Administrator may assess a Class II civil penalty not to exceed \$11,000.00 per day for each day during which the violation continues, to a maximum amount of \$157,500.00 for violations of Section 301 of the Act, 33 U.S.C. § 1311, up until January 12, 2009. After January 12, 2009, the maximum total penalty for violations of Section 301 of the Act, 33 U.S.C. § 1311, increased to \$177,000.00. Furthermore, EPA may seek criminal sanctions, including fines and imprisonment, for negligent or knowing violations of the CWA under Section 309(c) of the CWA, 33 U.S.C. § 1319(c).

11. This Order will become effective 10 days from the date a Respondent receives it, unless within that 10-day period the Respondent requests an informal conference to discuss the Findings of Violation or the Order and to present any information it wishes EPA to consider regarding the Findings of Violation or Order. If an informal conference is requested, it will be held at EPA's Region 5 offices at 77 West Jackson Boulevard, Chicago, Illinois. Alternatively, it can be conducted by telephone at Respondent's request. A Respondent may be represented by an attorney or other representative at the informal conference, but the conference will not take the form of a hearing. Additionally, even if no conference is requested, a Respondent may submit to EPA, at the address shown in paragraph 7 of this Order, written information regarding these Findings or this Order, provided it does so within ten days of the date it receives this Order. The conduct of an informal conference or the submittal of written information does not confer a right of judicial review of this Order. To request an informal conference, a Respondent should contact Ms. Melanie Haveman of my staff at (312) 886-2255, or Respondent's attorney may contact Mr. Richard J. Clarizio of the EPA Region 5 Office of Regional Counsel at (312) 886-0559.

12. Unless it is withdrawn or modified based on information presented in the informal

conference, the Order will become effective 10 days from the date of the informal conference or EPA's receipt of written information.

Dated: 10-26-11

A handwritten signature in black ink, appearing to read "Tinka G. Hyde", written over a horizontal line.

Tinka G. Hyde
Director, Water Division
U.S. Environmental Protection Agency, Region 5

**Exhibit 1: Polo Boulevard, Poland, OH
Wetland and Stream Impact Areas**

